

TITLE: The Toshiba Case

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A personal view

The Toshiba Case

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As the Harvard case study suggests, the CIA has faced few analytic issues that have put as much public and political pressure on it as its discovery, analysis, and reporting of the diversions of militarily critical technology to the Warsaw Pact by the Japanese firm, Toshiba. The study, however, ends in what hindsight shows was the middle of the case. What follows is an attempt to finish the narrative and to highlight some of the key lessons I learned.

Further Background

Had the case finished where Harvard ended the story, it would have been interesting, but not a firefight. In early 1987, Norway had admitted violations of COCOM. By July 1987, Japan—after several months of foot-dragging—had also acknowledged violations. The US House of Representatives and the US Senate voted to impose trade sanctions against the companies involved. The House and Senate versions were different and would require negotiations in the Conference Committee. The administration argued that trade sanctions against the companies were counterproductive, would be perceived in Tokyo as "Japan-bashing," and a better policy would be to work with our allies to improve COCOM. Administration spokesmen and lobbyists hired by Toshiba Corporation had made progress arguing against the sanctions, and the issue appeared to calm down.

As the party was winding down, however, CIA briefed National Security Council (NSC) and Department of State officials in August 1987 about new, strong—but not conclusive—evidence linking Toshiba Corporation, independent of the

activities of its subsidiary, Toshiba Machine, with transfers of significant microelectronic technology to Eastern Europe since at least 1979. Independently reviewing the same evidence, DIA had also reached this conclusion. This discovery would be particularly vexing to the Japanese because the key to Tokyo's argument against sanctions was that the Toshiba Corporation had no knowledge of the illegal sales to the Warsaw Pact and should not be punished for the action of a subsidiary. We prepared a paper used by the Deputy Secretary of State and the US Ambassador to brief Japanese officials on the problem.

Tokyo denied any wrongdoing by Toshiba Corporation, and many in the administration wanted to believe the company, hoping that the issue would fade. Many in Congress, however, saw this as a weapon against Japan. The debate with the administration, Tokyo, Toshiba, and its lobbyists on one side and the Congress on the other continued for almost a year after the Harvard study ends. For most of that year, CIA was in the middle. In the end, the Congress approved and the President signed the Trade Bill with sanctions against the firms. The process taught me some lessons.

Different Agendas

Most consumers want intelligence that supports their agenda, and we were not always aware of who had what agenda and why. In the machine tool case—detailed in the Harvard study—many in the Defense Department used and leaked our information to argue for sharp increases in funding for submarine development and construction, as well as antisubmarine technology. Early in the

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Case

case, State and Defense officials used our analysis as a weapon to persuade Japan and Norway to improve their export-control systems. As the case developed, some on the Hill and elsewhere used the information to stoke the anti-Japanese fire already being fueled by the trade deficit.

To support their different agendas, policymakers often will try to accelerate dissemination of information or restrict it. Early in the case, for example, high-level State Department officials wanted to keep pressure on Japan to implement a strong export-control system. The officials requested that we bypass the Bureau of Intelligence and Research (INR) and the Japan Desk at State in preparing a *demarche* based on the intelligence to speed the process of briefing Japanese officials in Washington and Tokyo. When State first briefed Japanese officials in Washington on both the machine tool case and on the microelectronics case, the Japan Desk and INR were excluded. On the other hand, once State decided CIA information was no longer helping and was hurting its case, these same officials began to insist that all analysis reflect an Intelligence Community judgment, knowing that this would slow the process.

Our customers also misanalyzed the agenda of some actors. When we briefed the NSC and State on the microelectronics case, we noted that Congress might use this evidence against the administration. Nonetheless, I said that we felt obligated to inform at least our oversight committees. The senior NSC person on this issue, however, told me that Congress was already getting bored with this problem. As a result, the administration played down the importance of requests we were getting for Congressional briefings. Because we gave the same briefing to all requesters, Congress knew as much on this issue as the White House and was using the information to counter administration arguments.

The Mystery of Intelligence

The wide range in quality and quantity of intelligence evidence remains a mystery to many

consumers. (b)(1) (b)(3)(n)

This quality and quantity overcame the preconceived bias of many policymakers. A senior Defense Department official, for example, when first approached by us about Kongsberg's involvement, argued that he knew the company and that it was clean. Our evidence changed his mind. (b)(1)

Consumers also often do not understand the difference between a legal case and an intelligence case. Even if they understand, they will be likely to complain when the evidence is clear but its legal application is not. For example, a Deputy Assistant Secretary of Defense told a senior CIA official that CIA should only publish and brief what we can prove in court.

Withstanding Political Pressure

The public and political pressure on us was intense. (b)(3)(n)

High-level officials in Washington and Tokyo complained about our analysis, our briefings to Congress, and the leaks in the press. In a letter to the Deputy Director of Central Intelligence (DDCI), an Assistant Secretary of Defense accused us of convicting Toshiba in the pages of the *Washington Times*. (b)(1)

a senior US diplomat accused me of attempting to undermine the US-Japan relationship. Speaking to high-level US officials, a Japanese trade official labeled me the principal "Jap-basher" in Washington.

To try to clear the air, key policymakers and the DDCI agreed that I would brief an NSC-chaired

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interagency group on all of our evidence and analysis. The impact of the actual briefing is debatable. One official told me it helped clarify key points, but another told me General Colin Powell left the room unconvinced and concerned about the thinness of our case. According to another high-level official, US troops had been sent into countries based on less evidence. In my judgment, however, the meeting primarily showed that I had support at the highest levels at CIA—both the DDCI and the Deputy Director for Intelligence attended the briefing—and that further public pressure on CIA was not going to change our analysis.

The impact was clear. At the interagency meetings I attended in the weeks following the briefing, the debate shifted from putting pressure on the CIA into changing our analysis to how to develop a strategy to deal with Congress. In addition, leaks in the press on CIA evidence and

analysis dried up and the policymakers stopped writing to the DCI on the subject.

Conclusion

Many of these lessons will be important in the future. Policymakers and the Congress face increasingly complex problems; they want clear answers that help solve problems, not complicate the issue. But intelligence is almost never that clear. Increasingly, intelligence is being used to support negotiations, monitor international agreements and treaties, and aid enforcement arms of government. Often we will know or have strong evidence about violators but will not be able to “prove” our case in court. When that happens, many of the experiences of the Toshiba episode and the kind of publicity it inspired are likely to be repeated.

This article is classified CONFIDENTIAL.

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Early - Mid-1986 Initial intelligence that Soviets had acquired large number of significant machine tools; *demarche*, using intelligence, issued to Japan; allegations denied.

December 1986 Using more complete intelligence reporting, Defense Under Secretary Ikle approaches Japanese Government again; using information supplied by Toshiba, Tokyo rejects *demarche*.

January 1987 At COCOM high-level meeting in Paris, US announced evidence that Toshiba and Norwegian firm Kongsberg had supplied the USSR with machine tools, computer control systems, and technology.

February - March 1987 Norway begins serious investigation of charges; Japan again denies involvement.

April 1987 After reports begin to appear in US press, interest in Congress accelerates and Tokyo initiates investigation.

May - July 1987 Japan admits violating COCOM; House and Senate approve differing amendments to Trade Bill calling for sanctions against Toshiba and Kongsberg; Japan revises its export-control procedures.

August 1987 - September 1987 CIA and DIA uncover strong but not conclusive evidence of further diversions by Toshiba, involving microelectronics; Tokyo promises a complete investigation.

September - October 1987 Japan replies on microelectronics cases, denying any wrongdoing.

November 1987 In response to Congressional request, CIA briefs Trade Bill Conference Committee.

November 1987 - February 1988 Administration opposes sanctions in Trade Bill; members of administration and Congress begin leaking information from CIA and DIA briefings that bolster their case.

March 1988 Administration pressure on CIA to revise assessment or revamp briefing peaks.

August 1988 Congress passes Trade Bill with sanctions.

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